

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

CALEB L. MCGILLVARY,

Plaintiff,

v.

NICHOLAS SCUTARI, et al.,

Defendants.

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No. 23-cv-22605-JMY

ORDER

On May 15, 2024, Defendants, Javerbaum Wurgaft Hicks Kahn Wikstrom & Sinins, P.C., together with Defendants Gerald H. Baker, Michael Galpern, Francisco J. Rodriguez and Jeffrey Rizika, filed a Motion to Dismiss for Lack of Jurisdiction, Failure to State a Claim and Motion for a More Definitive Statement (ECF No. 50) – under Federal Rules of Civil Procedure 12(b)(1), 12(b)(6) and 12(e) – along with an accompanying brief in support thereof. It is hereby ORDERED that:

1. Plaintiff, Caleb L. McGillvary, shall file a Brief in Opposition to Defendants’ Motion to Dismiss (ECF No. 50) within twenty (20) days of the date that this Order appears on the docket. Plaintiff is also advised that failure to file a brief in opposition may result in the Court summarily entering an Order granting Defendants’ Motion as uncontested or unopposed which could result in dismissal with prejudice of moving Defendants from the case and/or dismissal of this action.¹
2. All briefs in opposition shall conform to the requirements of Local Rule 7.1.
3. The Clerk of Court is **DIRECTED** to **TRANSMIT** (mail) copies of this Order to *pro se* Plaintiff at the mailing address that he has identified on the docket for service of court papers.

Date: May 16, 2024

BY THE COURT:

/s/ John Milton Younge
Judge John Milton Younge

¹ The Court may grant a motion as unopposed/uncontested when a litigant fails to file a response in opposition or files an untimely response in opposition. *DeHart v. U.S. Bank, N.A. ND, et al.*, 811 F.Supp.2d 1038, 1048 (D.N.J. 2011) (Granting defendant’s motion to dismiss breach of duty of good faith

and fair dealing claim due to plaintiff's failure to respond to defendant's argument); *Maun v. Kotler*, 2014 U.S. Dist. LEXIS 147601, (D.N.J. Oct. 15, 2014) (Granting defendant's motion to vacate default as uncontested because plaintiff "did not oppose the motion" or timely request an "extension of time to respond"); *Naderi v. Concentra Health Servs.*, 2023 U.S. Dist. LEXIS 132918, at *4 (D.N.J. Aug. 1, 2023). See also Fed. R. Civ. P. 41.